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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

**75 Hawthorne Street
San Francisco, CA 94105**

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

September 20, 2011

Mr. Tristan Tozer
State Historian I
Office of Historic Preservation – California Parks and Recreation
1416 9th Street, Room 1442-7
Sacramento, California 95814

Re: Compliance with Section 106 of the National Historic Preservation Act for Potential Renewal and Modification of Toxic Substance Control Act ("TSCA") Polychlorinated Biphenyls ("PCBs") B-18 Permit – Chemical Waste Management Kettleman Hills Facility - Response to Additional Information Request.

Dear Mr. Tozer:

The U.S. Environmental Protection Agency ("EPA") is reviewing an application from Chemical Waste Management Inc. ("CWM") to renew and modify its Approval ("Permit") under TSCA to store, manage and dispose of wastes containing PCBs at its facility located at 35251 Old Skyline Road, Kettleman City, CA 93239. As part of its application, CWM seeks to expand one of its hazardous waste landfill cells, Cell B-18, at its facility (the "Project"). At this time, EPA has not yet made a decision on whether to grant or deny CWM's request. However, as one part of our decision process we requested your input (December 21, 2009) on this undertaking as it applies to the requirements of Section 106 of the National Historic Preservation Act ("NHPA"). Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties, and to afford consulting parties and the public reasonable opportunity to comment.

On February 10, 2010, Mr. Trevor Pratt of your office requested additional information regarding the subject matter during a phone call with Mr. Edwin Poalinelli of my office. The following is a list of the additional information requested:

- Please provide additional information on the probability of finding archaeological resources as a result of the undertaking.
- Please contact the Native American Heritage Commission and request a Sacred Lands File Review and a Native American Contacts list.

The information below provides EPA responses to the additional information request pertaining to:

- 1) Probability of cultural resources, and
- 2) Native American Contacts

1) Probability of Cultural Resources

The *Final Subsequent Environmental Impact Report (FSEIR), B-18/B-20 Hazardous Waste Disposal Project, Kettleman Hills Facility, Chemical Waste Management, Inc., CH2M HILL September 2009 (State Clearinghouse No. 2005041064)* evaluated the probability of encountering Cultural Resources resulting from the B-18 expansion project. A copy of the FSEIR Executive Summary and related information are available at: <http://kettlemanhillslandfill.wm.com/index.jsp>

Summary of FSEIR Chapter 3.5 Cultural Resources Discussion:

The following discussion includes the pertinent language from the FSEIR regarding the likelihood of discovering cultural resources on site and the criteria used in the FSEIR to determine if the Project would potentially impact cultural resources. In short, the FSEIR concludes that the 1,600 acres that comprise Chemical Waste Management Kettleman Hills Facility (the "Facility") does not contain potentially "important" or "unique" historical or archaeological resources, thus the expansion project ("Project") is unlikely to result in an impact to cultural resources.

Section 3.5.1 and Section 3.5.3.2

The FSEIR analysis focused on whether the Project would result in an impact to cultural resources under the criteria set forth in California Environmental Quality Act ("CEQA"). As discussed in Section 3.5.1 and Section 3.5.3.2, pursuant CEQA Guidelines, Section 15064.5, and Public Resources Code ("PRC") Section 21083.2, the potential effects of the proposed Project were only considered significant if the Project would potentially impact "unique" cultural resources. In accordance with PRC Section 21083.2(g), an archaeological resource is considered "unique" if it meets one or more of the following criteria:

- Contains information needed to answer important scientific research questions and/or there is a demonstrable public interest in that information.
- Has a special and particular quality such as being the oldest of its type or the best available example of its type.
- Is directly associated with a scientifically recognized important prehistoric or historic event or person.

Section 3.5.2.2.1

As noted in Section 3.5.2.2.1, an archaeological study was conducted by TRC Companies, Inc. ("TRC") at the Facility in 2002, and a supplemental survey was conducted in 2003 (TRC 2004) (see Figure 3 of the FSEIR for the boundaries of the onsite archaeological survey area). These efforts included an examination of archaeological archival site records, maps, and project files. The archival search involved the use of the Southern San Joaquin Valley Information Center in Bakersfield, California, and revealed three prior archaeological surveys in or near the Project area, which identified two isolated occurrences ("IOs") within the Facility. The two IOs consist of an

assemblage of historic debris, including glass bottle fragments, which are believed to date to the 1880-1890 period (IF KIN 003), and a charmstone of unknown cultural and temporal affiliation (IF-KIN-001). Neither of these isolates are considered to be a significant cultural resource.

The 2002 field survey conformed to the topography of the terrain within the survey area for the proposed Project. The archaeologists walked the survey area in linear transects 15 meters (49 feet) apart across flat terrain, and in topographic transects on hilly terrain. The initial survey identified one IO, which was a crudely flaked unifacial lithic tool of brown quartzite with tan chert material. The supplemental 2003 survey did not identify additional artifacts or features. No significant archaeological or historic cultural materials were identified during the 2002 and 2003 surveys (TRC 2004).

Section 3.5.5

As discussed in Section 3.5.5, studies conducted by TRC (2004), Professional Archaeological Services (1988), and Archaeological Consulting (1984) concluded that the 1,600 acres that comprise the Facility do not contain potentially "important" or "unique" historical or archaeological resources. Therefore, impacts to archaeological resources are expected to be less than significant. However, operational procedures and regulatory requirements are reflected in mitigation measures provided in Section 3.5.7.1, which would be implemented in the event archaeological resources are discovered during construction of the proposed Project.

Section 3.5.7.1

Section 3.5.7.1, titled Impact Cultural Resources (CR)-1: Disturbance of unidentified archaeological resources requires the Project applicant, in the event archaeological resources are encountered during Project construction activities, to implement the following mitigation measures:

CR-Mitigation Measures (MM).1

If unique archaeological resources are encountered during Project construction activities, earth-moving activity in the immediate area shall cease until a qualified archaeologist is contacted, and the archaeologist has examined the findings, determined their significance, and recommended appropriate measures per CEQA Guidelines Section 15064.5. The archaeologist shall prepare a final written report of his or her investigation, findings and recommendations and shall submit the final report to the County within 30 calendar days after the investigation is completed.

Certain Studies Confidential

While the FSEIR included references to and cited certain cultural resource surveys, those studies were not included as part of the FSEIR due to confidentiality concerns. The following are the pertinent cultural resource surveys held confidential:

- *Preliminary Archaeological Reconnaissance and Paleontological Overview of a Parcel in the Kettleman Hills* (Archaeological Consulting 1984). Confidential
- *Archaeological Survey of a Parcel in the Kettleman Hills, Kings County, California* (Professional Archaeological Services 1988). Confidential.

- *Supplemental Cultural Resource Survey, Proposed Expansion, Kettleman Hills Facility – Chemical Waste Management, Inc., Kings County, California (TRC 2004). Confidential.*

2) Native American Contacts

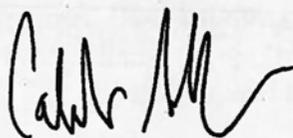
On February 22, 2010, EPA submitted a Native American File and Native American Contact List Request to the Native American Heritage Commission (NAHC), located in Sacramento, California. In a March 4, 2010 letter to EPA, the NAHC indicated that a Sacred Lands File Search “did not indicate” the presence of Native American cultural resources within one-half mile radius of the proposed Project site Area of Potential Effect.

Included in the correspondence to EPA from the NAHC was a Native American Contact List. EPA attempted to contact the Tribes listed on the Contact List by phone but our calls were not returned except for the Tule River Indian Tribe that requested more detail in writing, which we provided. EPA also sent via certified mail a written description of the project and a request for each tribe to become a consulting party (see attached Request for Information). We received confirmation of receipt for all letters. However, only the Table Mountain Rancheria responded and their response was that the Project was beyond their area of interest (see attached April 7, 2010 correspondence).

In addition to contacting the NAHC, we accessed the California Historical Resources Information System through the Southern San Joaquin Valley Archaeological Information Center. According to the letter dated November 23, 2007 (attached), “There are no known cultural resources within the project area that are listed in the National Register of Historic Places, the California Register, California Points of Historical Interest, or the California State Historic Landmarks.”

Thank you for assisting us in our NHPA compliance. We hope that this letter addresses all of your questions and we look forward to receiving your input on this undertaking as it applies to the requirements of Section 106 of the NHPA. If you have additional questions or concerns, please contact Chip Poalinelli of my staff at (415) 972-3390.

Sincerely



Caleb Shaffer, Manager
RCRA Facilities Management Office

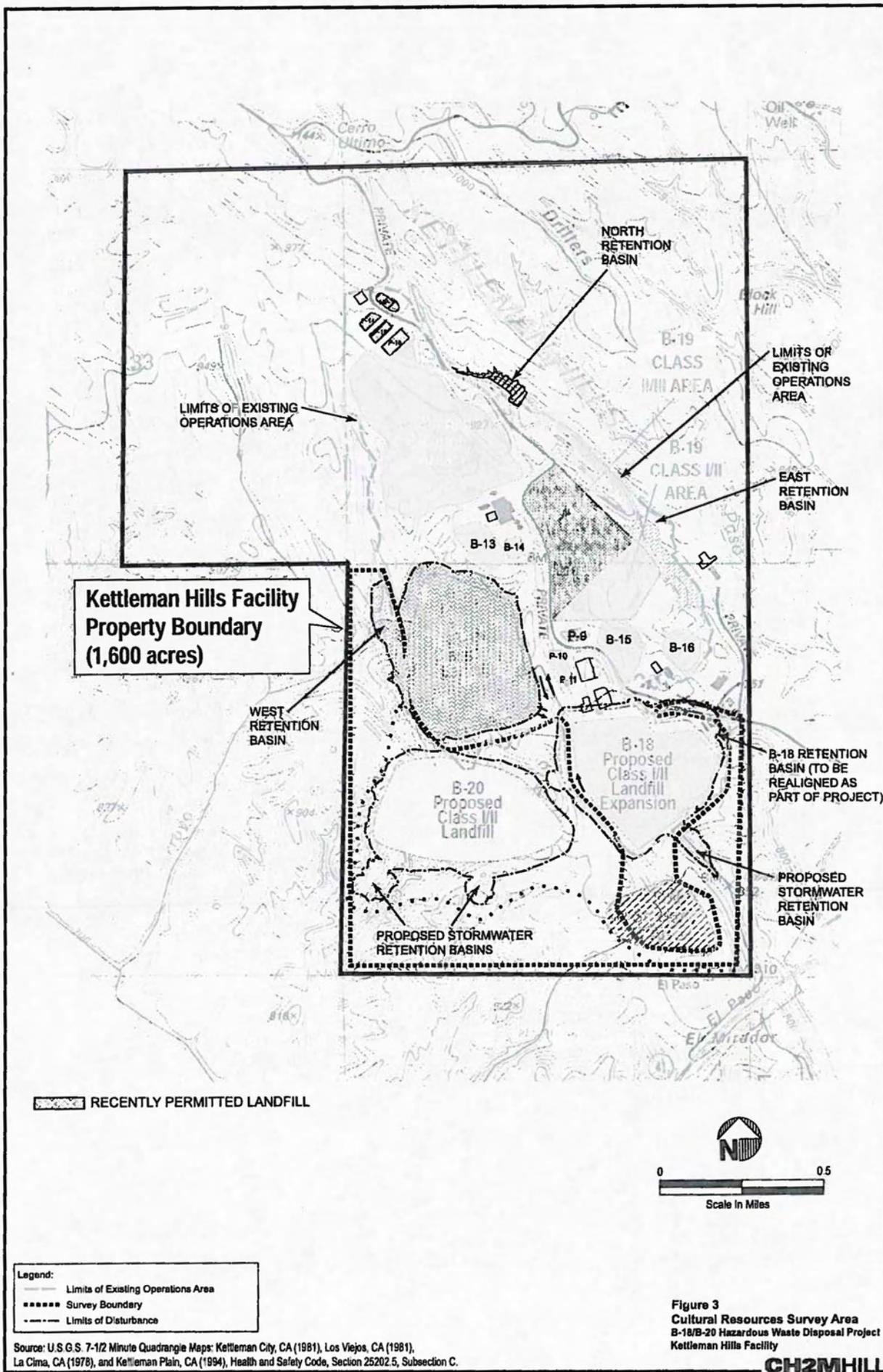
Enclosures:

- Request for Information – Tule River Indian Tribe
- Request for Information – Esohm Valley Band of Indians/Wuksache Tribe
- Request for Information – Santa Rosa Rancheria
- Request for Information – Kings River Choinumni Farm Tribe
- Request for Information – Table Mountain Rancheria

Native American Heritage Commission Response Letter
Table Mountain Rancheria Response Letter
Southern San Joaquin Valley Archaeological Information Center Response Letter
Figure 3 of the FSEIR – Cultural Resources Survey Area

cc: w/enclosures

Wayne Lorentzen, DTSC (via email)
Paul Turek, CWM (via email)



Source: U.S.G.S. 7-1/2 Minute Quadrangle Maps: Kettleman City, CA (1981), Los Viejos, CA (1981), La Cima, CA (1978), and Kettleman Plain, CA (1994), Health and Safety Code, Section 25202.5, Subsection C.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

March 10, 2010

Chairperson
Tule River Indian Tribe
P.O. Box 589
Porterville, CA 93258

Re: Request for Information on Culturally Significant Areas
Compliance with Section 106 of the National Historic Preservation Act for the Renewal
and Modification of Toxic Substance Control Act ("TSCA") Polychlorinated Biphenyls
("PCBs") B-18 Permit - Kettleman Hills Facility
EPA Facility ID – CAT000646117

Dear Chairperson

The U.S. Environmental Protection Agency ("U.S. EPA") is considering an application from Chemical Waste Management Inc. ("CWM") to renew and modify its Approval ("Permit") under the TSCA to store, manage and dispose of wastes containing PCBs at its facility located at 35251 Old Skyline Road, Kettleman City, CA 93239. We are seeking your input on this undertaking as it applies to the requirements of Section 106 of the National Historic Preservation Act ("NHPA"). Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties, and to afford consulting parties and the public reasonable opportunity to comment.

The Chemical Waste ("Facility") is located in western Kings County, California, in the Kettleman Hills which borders the west side of the San Joaquin Valley, approximately 2.6 miles west of Interstate 5 and State Route 41 intersection (Figure 1). The 1,600-acre Facility is within a rectangular area bounded on the northwest (Lat. 35.977728, Long. -120.030613), northeast (Lat. 35.978076, Long. -120.005606), southeast (Lat. 35.949384, Long. -120.004520), and southwest (Lat. 35.949523, Long. -120.030527).

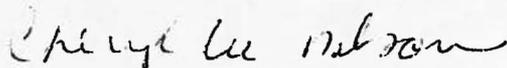
The facility is currently operating under a 2003 Resource Conservation and Recovery Act ("RCRA") Permit issued by the State of California Department of Toxic Substances ("DTSC") to manage hazardous waste and a separate TSCA Permit from the U.S. EPA to dispose and store PCB waste that was issued in 1992. The action we are considering includes: (1) a renewal of the TSCA Permit conditions for existing units that store, manage and dispose of PCB wastes, and (2) a modification to expand landfill B-18 vertically and horizontally by adding 11 acres (depth of

excavation is ~45 feet). Our proposed Area of Potential Effects ("APE") includes the existing footprint of landfill B-18 and the expansion area (Figure 2).

If you have any information, maps or reports that describe areas within the CWM Facility Landfill B-18 area that are culturally significant to the Tule River people, and are interested in being a consulting party for the NEPA evaluation, please let us know via email (Poalinelli.edwin@epa.gov) or mail by April 16, 2010.

Thank you for assisting us in our NHPA compliance. If you have any questions, please contact Chip Poalinelli of my staff at (415) 972-3390 or Poalinelli.Edwin@EPA.GOV.

Sincerely,



Cheryl Nelson, Manager
RCRA Facilities Management Office

Enclosures:

Figure 1 – Kettleman Hills Facility
Figure 2 – Area of Potential Effects

cc: w/enclosures

Ruth Adviento Cayabyab
Project Manager
Hazardous Waste Permitting
Operating Facilities Team
Department of Toxic Substances Control
8800 Cal Center Drive, Sacramento, CA 95826

Mr. Tristan Tozer
State Historian I
Office of Historic Preservation – California Parks and Recreation
1416 9th Street, Room 1442-7
Sacramento, CA 95814

Chemical Waste Management Kettleman Project File
Administrative Record

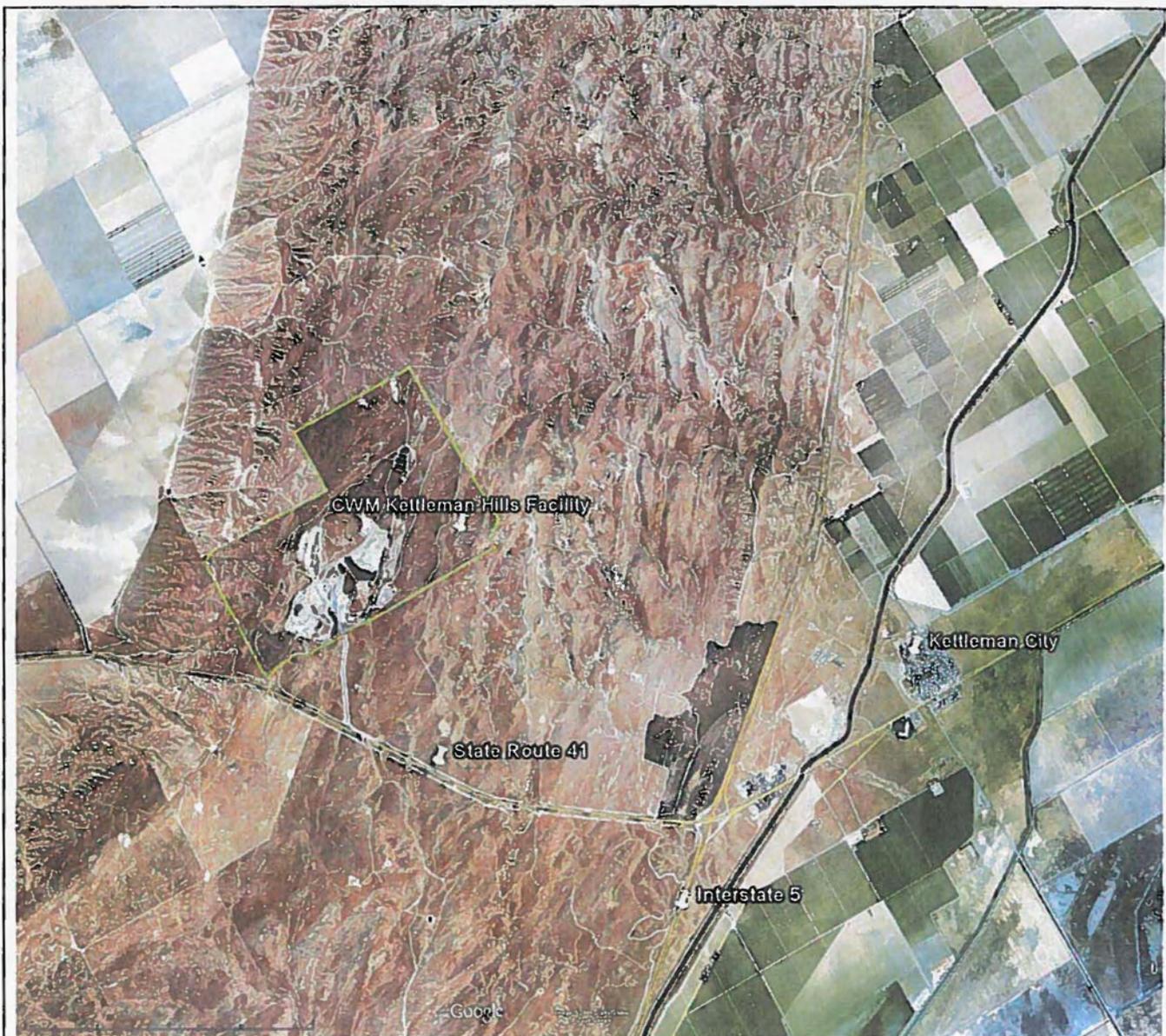


Figure 1
Chemical Waste Management Inc.
Kettleman Hills Facility
Section 106 National Historic Preservation Act



Figure 2
Chemical Waste Management
Kettleman Hills Facility
Area of Potential Effects
Section 106 National Historic Preservation Act



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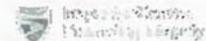
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

March 10, 2010

Kenneth Woodrow
Chairperson
Esohm Valley Band of Indians/Wuksache Tribe
1179 Rock Haven Ct.
Salinas, CA 93906

Re: Request for Information on Culturally Significant Areas
Compliance with Section 106 of the National Historic Preservation Act for the Renewal
and Modification of Toxic Substance Control Act ("TSCA") Polychlorinated Biphenyls
("PCBs") B-18 Permit - Kettleman Hills Facility
EPA Facility ID - CAT000646117

Dear Mr. Woodrow

The U.S. Environmental Protection Agency ("U.S. EPA") is considering an application from Chemical Waste Management Inc. ("CWM") to renew and modify its Approval ("Permit") under the TSCA to store, manage and dispose of wastes containing PCBs at its facility located at 35251 Old Skyline Road, Kettleman City, CA 93239. We are seeking your input on this undertaking as it applies to the requirements of Section 106 of the National Historic Preservation Act ("NHPA"). Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties, and to afford consulting parties and the public reasonable opportunity to comment.

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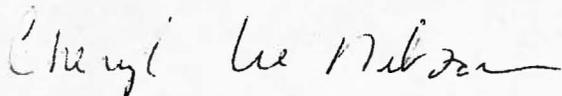
The facility is currently operating under a 2003 Resource Conservation and Recovery Act ("RCRA") Permit issued by the State of California Department of Toxic Substances ("DTSC") to manage hazardous waste and a separate TSCA Permit from the U.S. EPA to dispose and store PCB waste that was issued in 1992. The action we are considering includes: (1) a renewal of the TSCA Permit conditions for existing units that store, manage and dispose of PCB wastes, and (2) a modification to expand landfill B-18 vertically and horizontally by adding 11 acres (depth of

excavation is ~45 feet). Our proposed Area of Potential Effects ("APE") includes the existing footprint of landfill B-18 and the expansion area (Figure 2).

If you have any information, maps or reports that describe areas within the CWM Facility Landfill B-18 area that are culturally significant to the Esohm people, and are interested in being a consulting party for the NEPA evaluation, please let us know via email (Poalinelli.edwin@epa.gov) or mail by April 16, 2010.

Thank you for assisting us in our NHPA compliance. If you have any questions, please contact Chip Poalinelli of my staff at (415) 972-3390 or Poalinelli.Edwin@EPA.GOV.

Sincerely,



Cheryl Nelson, Manager
RCRA Facilities Management Office

Enclosures:

Figure 1 – Kettleman Hills Facility
Figure 2 – Area of Potential Effects

cc: w/enclosures

Ruth Adviento Cayabyab
Project Manager
Hazardous Waste Permitting
Operating Facilities Team
Department of Toxic Substances Control
8800 Cal Center Drive, Sacramento, CA 95826

Mr. Tristan Tozer
State Historian I
Office of Historic Preservation – California Parks and Recreation
1416 9th Street, Room 1442-7
Sacramento, CA 95814

Chemical Waste Management Kettleman Project File
Administrative Record

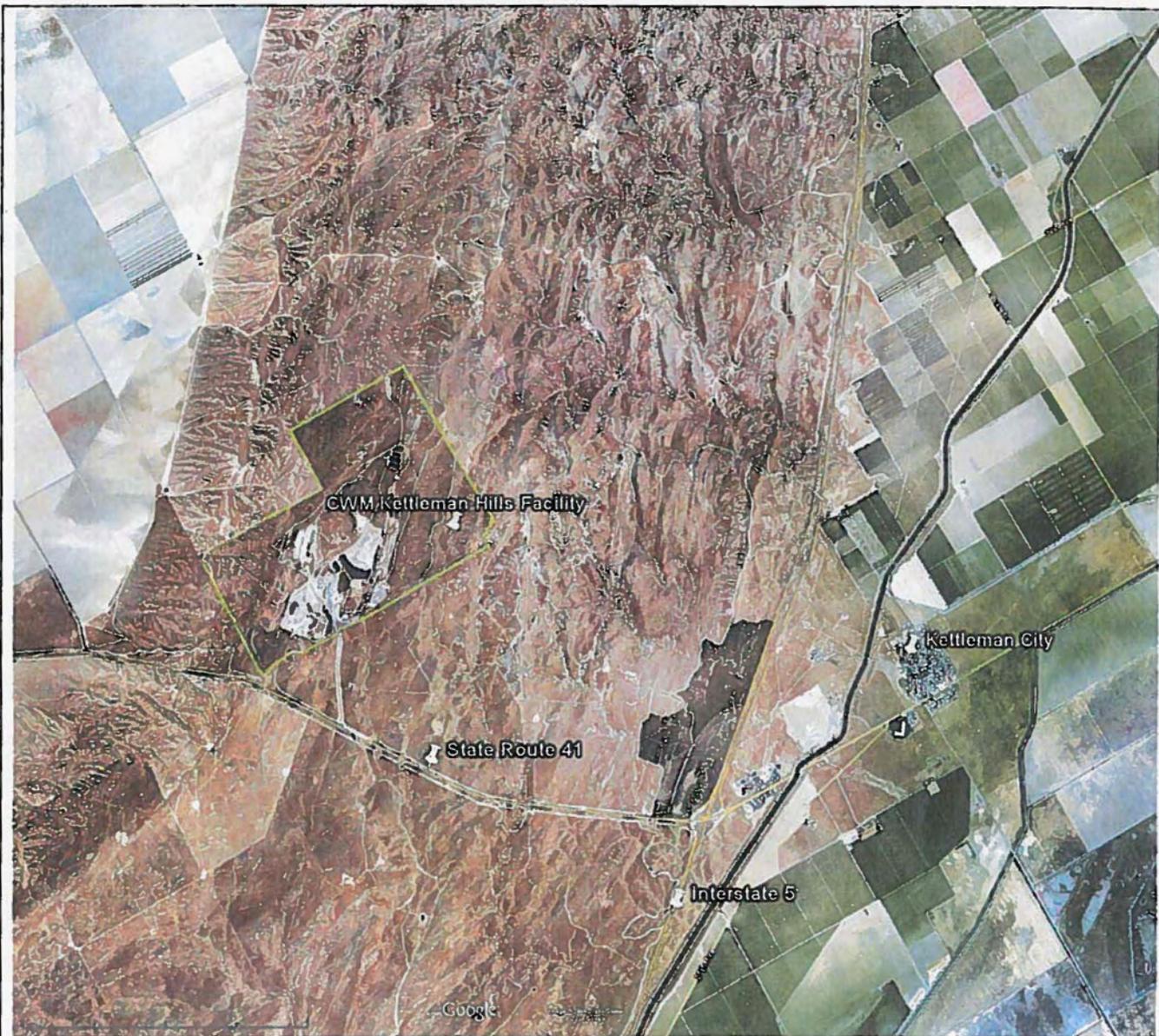


Figure 1
Chemical Waste Management Inc.
Kettleman Hills Facility
Section 106 National Historic Preservation Act



Figure 2
Chemical Waste Management
Kettleman Hills Facility
Area of Potential Effects
Section 106 National Historic Preservation Act



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

**CERTIFIED MAIL
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March 10, 2010

Director – Cultural Department
Santa Rosa Rancheria
P.O. 8
Lemoore, CA 93245

Re: Request for Information on Culturally Significant Areas
Compliance with Section 106 of the National Historic Preservation Act for the Renewal
and Modification of Toxic Substance Control Act (“TSCA”) Polychlorinated Biphenyls
(“PCBs”) B-18 Permit - Kettleman Hills Facility
EPA Facility ID – CAT000646117

Dear Director

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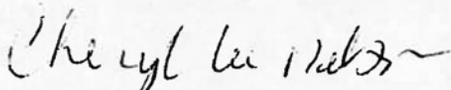
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Thank you for assisting us in our NHPA compliance. If you have any questions, please contact Chip Poalinelli of my staff at (415) 972-3390 or Poalinelli.Edwin@EPA.GOV.

Sincerely,



Cheryl Nelson, Manager
RCRA Facilities Management Office

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Figure 2 – Area of Potential Effects

cc: w/enclosures

Ruth Adviento Cayabyab
Project Manager
Hazardous Waste Permitting
Operating Facilities Team
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8800 Cal Center Drive, Sacramento, CA 95826

Mr. Tristan Tozer
State Historian I
Office of Historic Preservation – California Parks and Recreation
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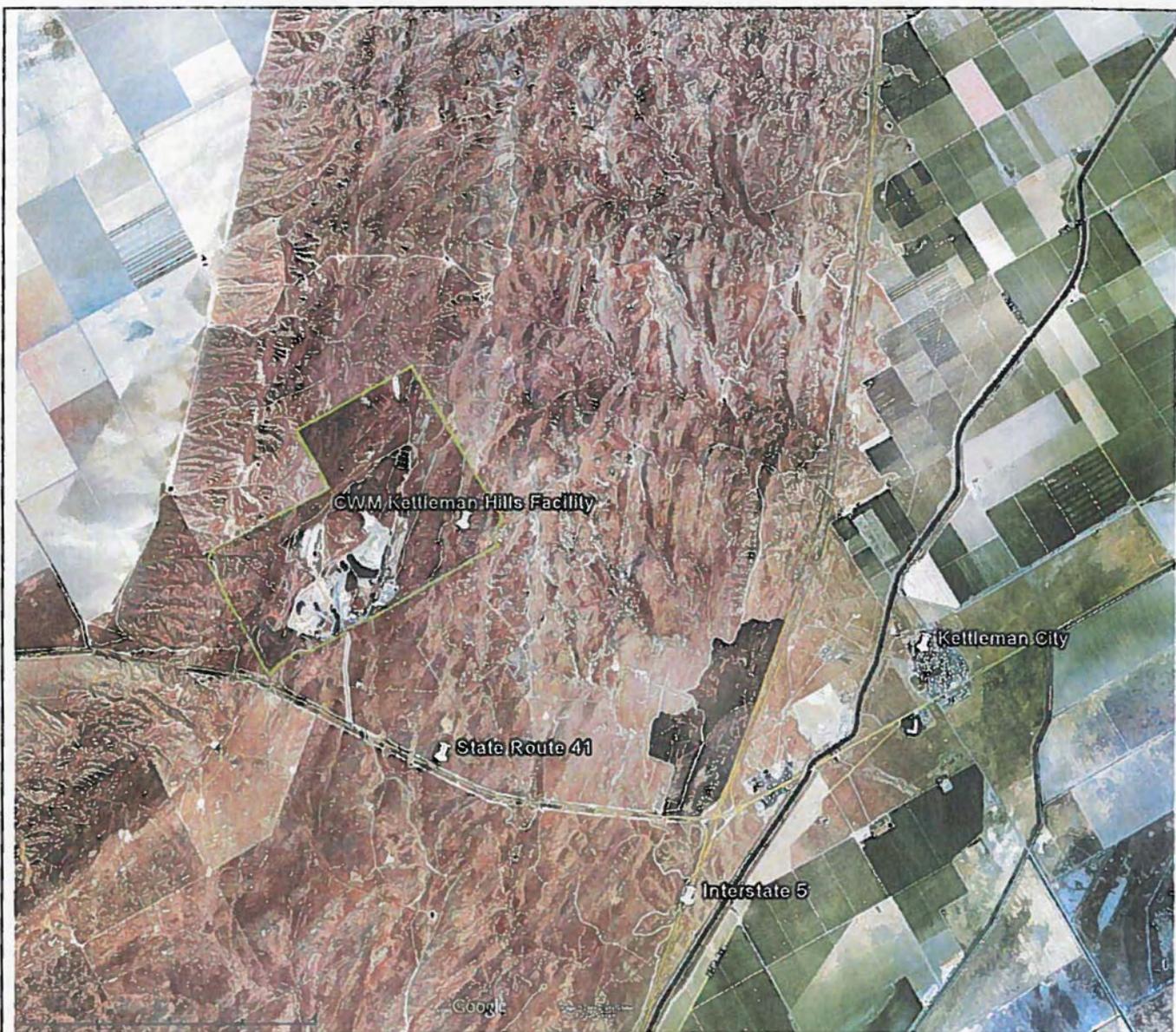


Figure 1
Chemical Waste Management Inc.
Kettleman Hills Facility
Section 106 National Historic Preservation Act



Figure 2
Chemical Waste Management
Kettleman Hills Facility
Area of Potential Effects
Section 106 National Historic Preservation Act



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

**CERTIFIED MAIL
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March 10, 2010

John Davis
Chairman
Kings River Choinumni Farm Tribe
1064 Oxford Avenue
Clovis, CA 93612-2211

Re: Request for Information on Culturally Significant Areas
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and Modification of Toxic Substance Control Act ("TSCA") Polychlorinated Biphenyls
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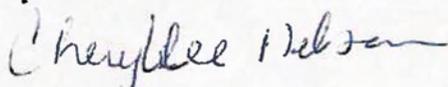
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excavation is ~45 feet). Our proposed Area of Potential Effects ("APE") includes the existing footprint of landfill B-18 and the expansion area (Figure 2).

If you have any information, maps or reports that describe areas within the CWM Facility Landfill B-18 area that are culturally significant to the Kings River Choinumni Farm people, and are interested in being a consulting party for the NEPA evaluation, please let us know via email (Poalinelli.edwin@epa.gov) or mail by April 16, 2010.

Thank you for assisting us in our NHPA compliance. If you have any questions, please contact Chip Poalinelli of my staff at (415) 972-3390 or Poalinelli.Edwin@EPA.GOV.

Sincerely,



Cheryl Nelson, Manager
RCRA Facilities Management Office

Enclosures:

Figure 1 – Kettleman Hills Facility
Figure 2 – Area of Potential Effects

cc: w/enclosures

Ruth Adviento Cayabyab
Project Manager
Hazardous Waste Permitting
Operating Facilities Team
Department of Toxic Substances Control
8800 Cal Center Drive, Sacramento, CA 95826

Mr. Tristan Tozer
State Historian I
Office of Historic Preservation – California Parks and Recreation
1416 9th Street, Room 1442-7
Sacramento, CA 95814

Chemical Waste Management Kettleman Project File
Administrative Record

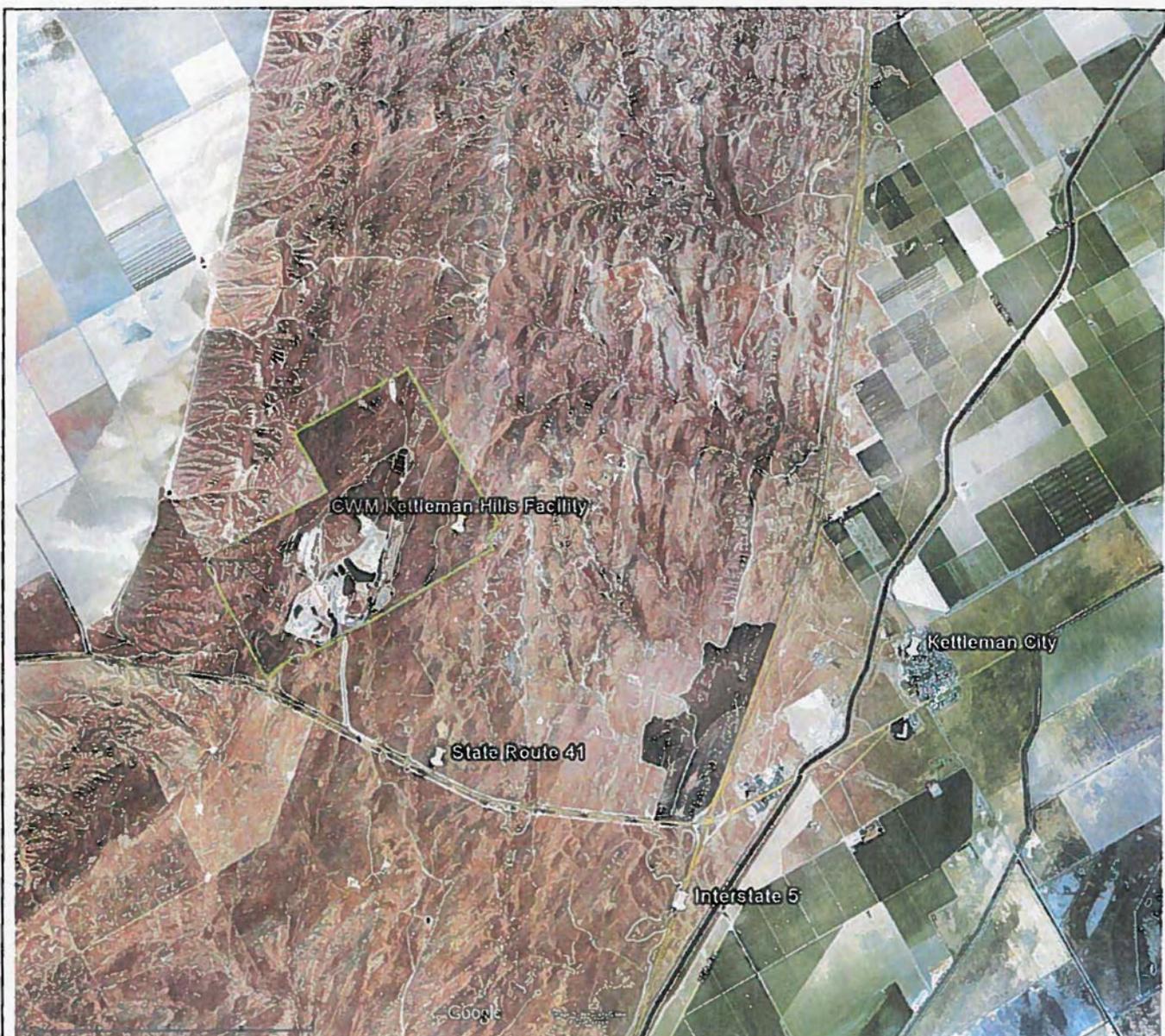


Figure 1
Chemical Waste Management Inc.
Kettleman Hills Facility
Section 106 National Historic Preservation Act



Figure 2
Chemical Waste Management
Kettleman Hills Facility
Area of Potential Effects
Section 106 National Historic Preservation Act



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

March 10, 2010

Bob Pennell
Cultural Resources Director
Table Mountain Rancheria
P.O. Box 410
Friant, CA 93626-0177

Re: Request for Information on Culturally Significant Areas
Compliance with Section 106 of the National Historic Preservation Act for the Renewal
and Modification of Toxic Substance Control Act ("TSCA") Polychlorinated Biphenyls
("PCBs") B-18 Permit - Kettleman Hills Facility
EPA Facility ID – CAT000646117

Dear Mr. Pennell

The U.S. Environmental Protection Agency ("U.S. EPA") is considering an application from Chemical Waste Management Inc. ("CWM") to renew and modify its Approval ("Permit") under the TSCA to store, manage and dispose of wastes containing PCBs at its facility located at 35251 Old Skyline Road, Kettleman City, CA 93239. We are seeking your input on this undertaking as it applies to the requirements of Section 106 of the National Historic Preservation Act ("NHPA"). Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties, and to afford consulting parties and the public reasonable opportunity to comment.

The Chemical Waste ("Facility") is located in western Kings County, California, in the Kettleman Hills which borders the west side of the San Joaquin Valley, approximately 2.6 miles west of Interstate 5 and State Route 41 intersection (Figure 1). The 1,600-acre Facility is within a rectangular area bounded on the northwest (Lat. 35.977728, Long. -120.030613), northeast (Lat. 35.978076, Long -120.005606), southeast (Lat. 35.949384, Long. -120.004520), and southwest (Lat. 35.949523, Long. -120.030527).

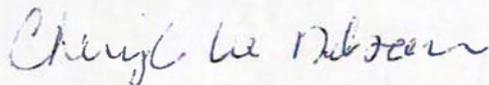
The facility is currently operating under a 2003 Resource Conservation and Recovery Act ("RCRA") Permit issued by the State of California Department of Toxic Substances ("DTSC") to manage hazardous waste and a separate TSCA Permit from the U.S. EPA to dispose and store PCB waste that was issued in 1992. The action we are considering includes: (1) a renewal of the TSCA Permit conditions for existing units that store, manage and dispose of PCB wastes, and (2) a modification to expand landfill B-18 vertically and horizontally by adding 11 acres (depth of

excavation is ~45 feet). Our proposed Area of Potential Effects ("APE") includes the existing footprint of landfill B-18 and the expansion area (Figure 2).

If you have any information, maps or reports that describe areas within the CWM Facility Landfill B-18 area that are culturally significant to the Table Mountain Rancheria people, and are interested in being a consulting party for the NEPA evaluation, please let us know via email (Poalinelli.edwin@epa.gov) or mail by April 16, 2010.

Thank you for assisting us in our NHPA compliance. If you have any questions, please contact Chip Poalinelli of my staff at (415) 972-3390 or Poalinelli.Edwin@EPA.GOV.

Sincerely,



Cheryl Nelson, Manager
RCRA Facilities Management Office

Enclosures:

Figure 1 – Kettleman Hills Facility
Figure 2 – Area of Potential Effects

cc: w/enclosures

Ruth Adviento Cayabyab
Project Manager
Hazardous Waste Permitting
Operating Facilities Team
Department of Toxic Substances Control
8800 Cal Center Drive, Sacramento, CA 95826

Mr. Tristan Tozer
State Historian I
Office of Historic Preservation – California Parks and Recreation
1416 9th Street, Room 1442-7
Sacramento, CA 95814

Chemical Waste Management Kettleman Project File
Administrative Record

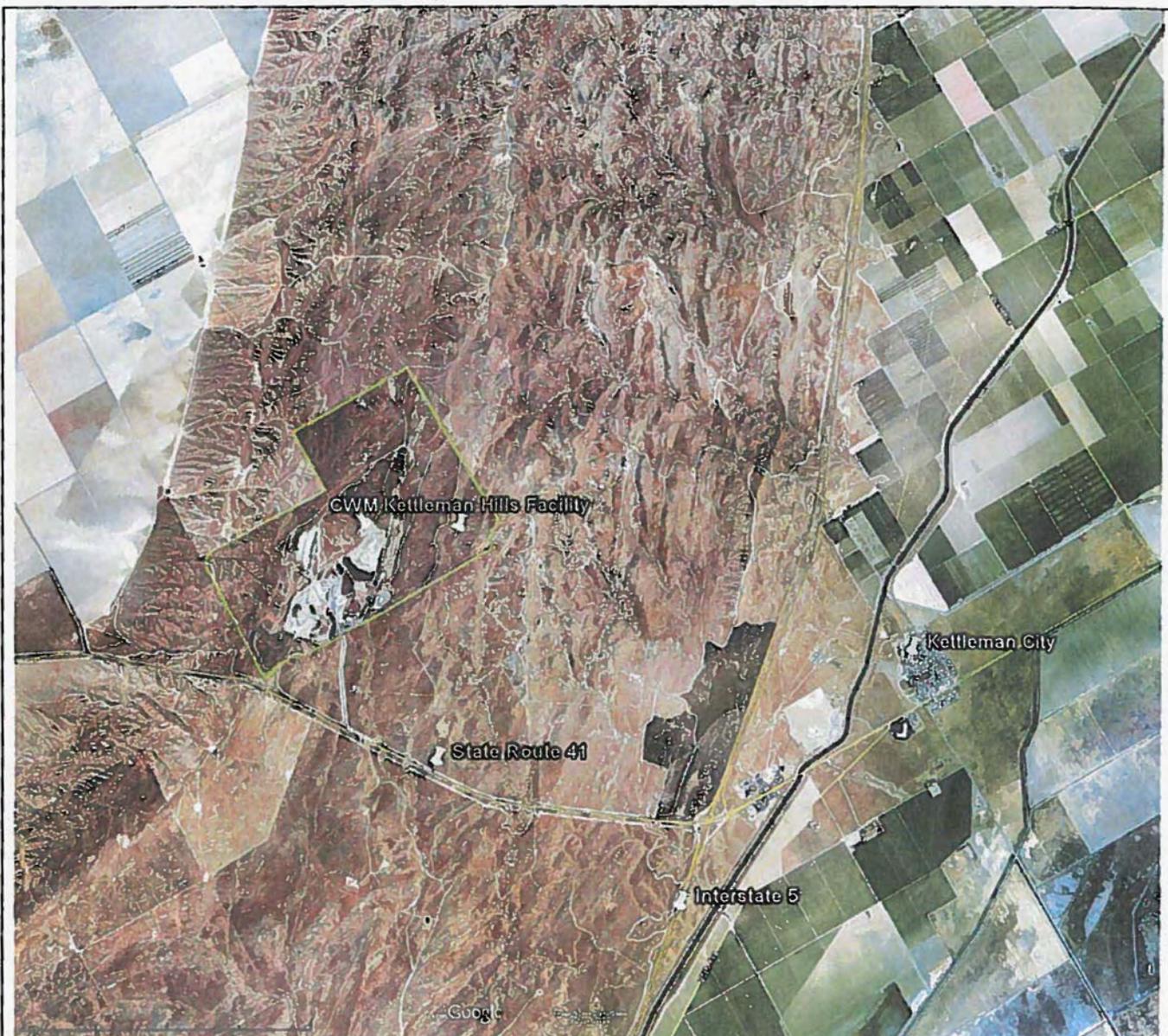


Figure 1
Chemical Waste Management Inc.
Kettleman Hills Facility
Section 106 National Historic Preservation Act



Figure 2
Chemical Waste Management
Kettleman Hills Facility
Area of Potential Effects
Section 106 National Historic Preservation Act



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STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 384
 SACRAMENTO, CA 95814
 (916) 653-6251
 Fax (916) 657-5390
 Web Site www.nahc.ca.gov
ca_nahc@pacbell.net



March 4, 2010

Mr. Edwin Poainelli
 United States Environmental Protection Agency
 75 Hawthorne Street (WST-4)
 San Francisco, CA 94105

Sent by FAX to 415-947-3533

No. of Pages: *A* 3

Re: Request for a Sacred Lands File Search and Native American Contacts List for a Proposed "Kettleman Hills Chemical Waste Management - B-18 Expansion Project, under a TSCA Permit to Store and Dispose of Waste Containing PCBs" located in western Kings County, California 2.6 miles west of Interstate 5 where it intersects with State Route 41.

Dear Mr. Poainelli:

The Native American Heritage Commission (NAHC), the State of California 'Trustee Agency' for the protection and preservation of Native American cultural resources (c.f. CA Public Resources Code §21070; also c.f. *Environmental Protection Information Center v. Johnson (1985) 170 Cal App. 3rd 604*), was able to perform a record search of its Sacred Lands File (SLF) for the affected project area (APE) requested. The California Environmental Quality Act (CEQA; CA Public Resources Code Section 21000 - 21177) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the 2007 CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." The NAHC SLF search did not indicate the presence of Native American cultural resources within one-half - mile radius of the proposed project site (APE).

This letter includes state and federal statutes relating to Native American historic properties of religious and cultural significance to American Indian tribes and interested Native American individuals as 'consulting parties' under both state and federal law.

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of the nearest tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We recommend that you contact persons on the attached list of Native American contacts. Furthermore we suggest that you contact the California Historic Resources Information System (CHRIS) at the Office of Historic Preservation Coordinator's office (at (916) 653-7278, for referral to the nearest Information Center of which there are 10.

Consultation with tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f] *et seq.*), 36 CFR Part 800.3 (f) (2), the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq.*) and NAGPRA (25 U.S.C. 3001-3013), as appropriate. The 1992 *Secretary of the Interior's Standards for the*

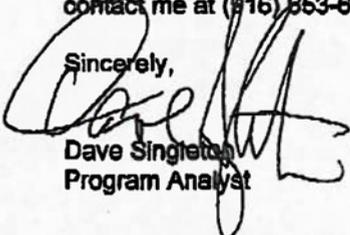
Treatment of Historic Properties were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including *cultural landscapes*.

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.96 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery'. Discussion of these should be included in your environmental documents, as appropriate.

The response to this search for Native American cultural resources is conducted in the NAHC Sacred Lands Inventory, established by the California Legislature (CA Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10) although Native Americans on the attached contact list may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of 'historic properties of religious and cultural significance' may also be protected under Section 304 of the NHPA or at the Secretary of the Interior' discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C, 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity.

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely,


Dave Singleton
Program Analyst

Attachment: Native American Contacts List (NOTE: we further recommend that other forms of 'proof of mailing or proof of contact be utilized instead of 'Return Receipt Requested' Certified or Registered Mail.) Further, we suggest a follow-up telephone call to the contacts if the replies are not received or need clarification.

Native American Contacts
Kings County
March 3, 2010

Santa Rosa Rancheria
Chairperson
P.O. Box 8
Lemoore , CA 93245
(559) 924-1278
(559) 924-3583 Fax

Tache
Tachi
Yokut

Esohm Valley Band of Indians/Wuksache Tribe
Kenneth Woodrow, Chairperson
1179 Rock Haven Ct. Foothill Yokuts
Salinas , CA 93906 Mono
831-443-9702
Left Message 3:25

* Tule River Indian Tribe —
Chairperson
P.O. Box 589
Porterville , CA 93258
chairman@tulerivertribe-nsn.
(559) 781-4271
(559) 781-4610 FAX
3/8 3:54

Yokuts

Santa Rosa Rancheria
Lalo Franco, Director - Cultural Department
P.O. Box 8
Lemoore , CA 93245
(559) 924-1278
(559) 925-8530-FAX
Left Message 3/8 3:20

Yokuts
Tachi

Tuleriver Env @ yahoo.com

* Table Mountain Rancheria ✓
Bob Pennell, Cultural Resources Director
P.O. Box 410
Friant , CA 93626-0177
(559) 325-0351
(559) 217-9718 - cell
(559) 325-0394 FAX

Yokuts

* Kings River Choinumni Farm Tribe
John Davis, Chairman
1064 Oxford Avenue
Clovis , CA 93612-2211
559-324-9908
Number Disconnected
Send Letter

Foothill Yokuts
Choinumni

1051 Brookside Drive
Clovis CA 93611

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106, and federal NAGPRA.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed Kettleman Hills Chemical Waste Management - B - 18 Expansion Project; located in western Kings County, California for which a Sacred Lands file search and Native American Contacts list were requested.



TABLE MOUNTAIN RANCHERIA

TRIBAL GOVERNMENT OFFICE

April 07, 2010

Chip Poalinelli
U.S.E.P.A.
Region IX
75 Hawthorne St.
San Francisco, Ca. 94105

RE: Kettleman Hills Facility

Dear Chip Poalinelli:

This is in response to your letter dated March 10, 2010, regarding the Kettleman Hills Facility, Project.

We appreciate receiving notice; however, this project site is beyond our area of interest.

Sincerely,


Bob Pennell
Cultural Resources Director

Leanne Walker-Grant
Tribal Chairperson

Brenda D. Lavell
Tribal Vice-Chairperson

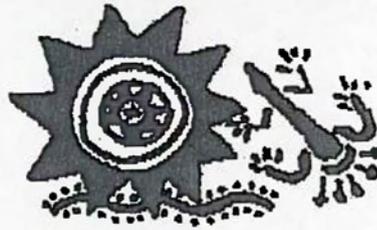
Craig Martinez
Tribal Secretary/Treasurer

Ray Barnes
Tribal Council Member

John L. Burrough
Tribal Council Member

23736
Sky Harbour Road
Post Office
Box 410
Friant
California
93626
(559) 822-2587
Fax
(559) 822-2693

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Southern San Joaquin Valley
Archaeological Information Center
California State University, Bakersfield
9001 Stockdale Highway
31 MW
Bakersfield, California 93311-1022
(661) 654-2289 FAX (661) 654-2415
E-mail: abaldwin@csu.edu

TO: Max Weintraub, Project Officer (RS# 07-386)
U.S. EPA
75 Hawthorne Street, Mail Drop: CMD-4-2
San Francisco, CA 94105-3901

DATE: November 23, 2007

RE: Order # EP079000258: CWM Kettleman Hills Facility Project

County: Kings

Map(s): Kettleman Plain and Los Viejos 7.5's

The Southern San Joaquin Valley Information Center is under contract to the State Office of Historic Preservation and is responsible for the local management of the California Historical Resources Inventories. The Center is funded by research fees and a grant from the State Office of Historic Preservation. The Information Center does not conduct fieldwork and is not affiliated with any archaeological consultants who conduct fieldwork. A referral list of individuals who meet the Secretary of the Interior's standards for their profession is enclosed.

CULTURAL RESOURCES RECORDS SEARCH

The following are the results of a search of the cultural resources files at the Southern San Joaquin Valley Archaeological Information Center. These files include known and recorded archaeological and historic sites, inventory and excavation reports filed with this office, and properties listed on the National Register of Historic Places, Historic Property Data File, (9/3/07), the California State Historical Landmarks, the California Register, the California Inventory of Historic Resources, and the California Points of Historical Interest.

**PRIOR CULTURAL RESOURCE INVENTORIES WITHIN THE PROJECT AREA AND
A ¼ MILE RADIUS**

There have been (5) five cultural resource studies conducted within the project area, KI-3, 10, 14, 45, & 131. There have been (2) two surveys immediately adjacent, KI-142 & 143 and one survey within a one-mile radius, KI-132. Surveys and their associated report numbers are plotted on the project map.

COPY

(RS # 07-386)

KNOWN AND/OR RECORDED CULTURAL RESOURCES WITHIN THE PROJECT AREA AND A ONE-MILE RADIUS

There are (2) two recorded cultural resources within the project area, P-16-000091 & 93. Both are isolate artifacts, a prehistoric chertstone and historic era bottles, etc. There are no recorded cultural resources within a one-mile radius. Resources and their associated primary numbers are on the project map.

There are no known cultural resources within the project area that are listed in the National Register of Historic Places, the California Register, California Inventory of Historic Resources, California Points of Historical Interest, or the California State Historic Landmarks.

COMMENTS/RECOMMENDATIONS

We understand this 1600-acre project area is currently vacant except for 500 acres currently used for treatment, storage, and disposal of hazardous and municipal solid waste. Given the proximity of recorded cultural resources in the vicinity and the age of the surveys that were conducted within the project area, we recommend the following: Prior to ground disturbance activity, a qualified professional archaeologist should conduct a field survey of the entire project area. *Please note: "Archaeological site locations are exempted from the California Freedom of Information Act, as specified in Government Code 6254.10." Their location may only be provided to a qualified professional who meets the Secretary of the Interior standards or the landowner of record.* The archaeologist of your choice should contact our office to obtain the information needed to conduct a field survey. A current referral list of qualified professionals was emailed to you last week. If you have any questions or need additional information, please contact me at 661/654-2289.

By:

*Adele Baldwin***COPY**

Adele Baldwin
Assistant Coordinator

Date: November 23, 2007

Fee: \$150.00

Invoice # A4710